

ARKANSAS COURT OF APPEALS
NOT DESIGNATED FOR PUBLICATION
KAREN R. BAKER, JUDGE

DIVISION III

CACR06-00941

CALVIN MCDANIEL

MAY 2, 2007

	APPELLANT	APPEAL FROM THE CRITTENDEN COUNTY CIRCUIT COURT [CR-01-718]
v.		
STATE OF ARKANSAS		
	APPELLEE	HONORABLE CHARLES DAVID BURNETT, JUDGE

AFFIRMED

Appellant Calvin McDaniel was sentenced to five years in the Arkansas Department of Correction and five years suspended imposition of sentence by a Crittenden County Circuit Court on November 6, 2001, for the charge of possession of a controlled substance with intent to deliver, a Class C felony. On May 19, 2006, the trial court revoked appellant's suspended sentence citing several grounds for revocation including his being in association with a person engaged in criminal activity, being in joint possession of drugs, being in joint participation in the distribution of drugs, and failure to pay fines and costs. The circuit court then imposed the five years previously suspended. On appeal, appellant claims the trial court erred by failing to grant his motion for directed verdict regarding the allegations of associating with others violating criminal laws, possession of a controlled substance with intent to deliver, and delivery of a controlled substance. We find no error and affirm.

Appellant does not challenge the trial court's finding that he was in violation of the provision of good conduct of his suspended portion of his sentence by his failure to pay fines and costs without

legitimate reason for it. Appellant's argument focuses on the facts and circumstances surrounding a controlled buy of cocaine that implicated appellant and asserts that the evidence was insufficient to link appellant to the contraband in this case involving joint occupancy of a vehicle. Appellant never challenges the trial's revocation of appellant's suspended imposition of sentence based upon his failure to pay fines and costs.

We affirm a trial court's revocation even if only one possible ground for revocation is supported by the evidence. *Brock v. State*, 70 Ark. App. 107, 14 S.W.3d 908 (2000). At the hearing, Deborah Wiseman testified that she collected fines at the Sheriff's office, and that she had received no payments in appellant's case to apply to the assessed \$475 in fines and costs to be paid at \$50 a month following his release from the Department of Correction. Appellant testified that he knew he had the obligation to pay the fines and admitted that he had not paid any of the fines or costs. Appellant explained that he had not yet obtained employment after his release from his sentence and excused his failure to pay the obligation by saying that he had only been released a few months. He emphasized that he had not tried to avoid the obligation. *See Palmer v. State*, 60 Ark. App. 97, 100, 959 S.W.2d 420, (1998) (once evidence of a violation of the conditions relating to payment of fines and costs is introduced, the defendant bears the burden of going forward with some reasonable excuse for his failure to pay).

On appeal of a revocation, appellant has the burden of proving that the circuit court's findings are clearly against the preponderance of the evidence. *Richardson v. State*, 85 Ark. App. 347, 157 S.W.3d 536 (2004). Appellant does not challenge the trial court's finding regarding appellant's failure to pay fines and costs, and the evidence clearly supports the finding.

Accordingly, we affirm.

HART and GRIFFEN, JJ., agree.

